

JOHN C. KLOTZ

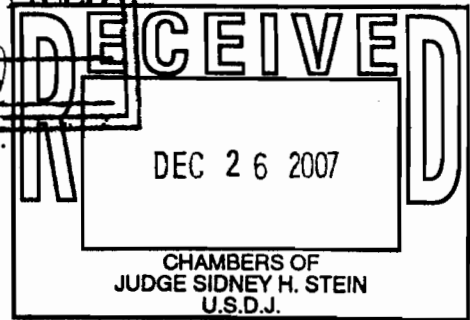
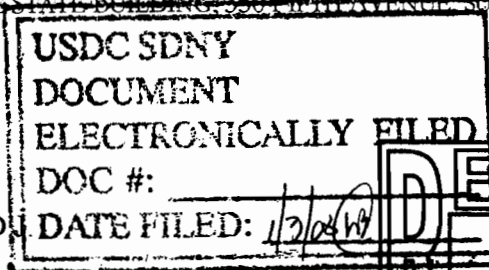
ATTORNEY AND COUNSELOR AT LAW

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BY OVERNIGHT DELIVERY

December 21, 2007

Hon. SIDNEY H. STEIN, U.S.D.J.  
United States Courthouse  
500 Pearl Street  
New York, NY 10007



Re: Storman v. N.Y.C. Department of Education  
Index No. 07 CV 5797 (SHS)  
Pending Motion to Dismiss

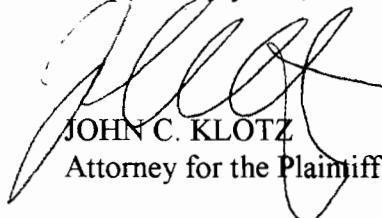
Dear Judge Stein:

Justice Friedman of the N.Y. State Supreme Court has issued a decision and order in the collateral Article 78 proceeding vacating the determination of the defendant N.Y.C. Department of Education ("NYCDOE") and remanding the matter back to the defendant. A copy of the decision is annexed. Plaintiff served a Notice of Appeal on November 30, 2007 by overnight delivery service and the time for NYCDOE to file either Notice of Appeal and/or Cross-Appeal will expire December 31, 2007.

Both the Plaintiff and the Defendant have filed discovery requests and are endeavoring to comply with the same.

Plaintiff believes that Justice Friedman's decision while demonstrating the merit of his claims that the NYCDOE acted improperly, does not address the issue of his ongoing damages which are increasing every session and some of which are not recoverable in an Article 78 proceeding in any event. Pursuant to your initial order in this case, both sides are proceeding with discovery in the meantime. However, Justice Friedman's decision represents a significant change of circumstances and plaintiff would like your advice on whether the Court would request additional briefing and/or oral argument of the pending motion as a result.

Respectfully yours,

  
JOHN C. KLOTZ  
Attorney for the Plaintiff

Attachment: Judge Friedman's Order and decision.

CC VIA E-MAIL ATTACHMENT  
Daniel Chiu  
Assistant Corporation Counsel  
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*1/3/08  
The parties may submit  
letters setting forth the  
impact of Justice  
Friedman's Order on this  
litigation, on or before  
Wed, Jan 9, 2008.  
Oral argument on the  
motion to dismiss is set for  
Jan. 16, 2008 at 2:30 p.m.  
So order - J. Stein  
2505*

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